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Commission Secretary
Office of the Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Subject: Response to FCC Docket 05-254

The Jamaica Competitive Telecommunications Association and Reliant Enterprise Communications Ltd. would like to thank the FCC for giving us the opportunity to comment on the referenced Docket.

If you have any questions, please feel free to contact me.

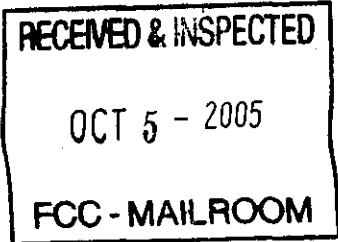
Sincerely

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**Jamaica Competitive Telecoms Association and Reliant Enterprise
Communications Ltd Response to FCC IB Docket No. 05-254
Notice of Inquiry**

**Submitted By:
Stephen P. Twomey
Vice President JCTA
President Reliant**

Introduction

The Jamaica Competitive Telecoms Association (JCTA) is an industry group representing a portion of the competitive operators in different market segments to lobby the Government and Regulator for fair and equal treatment in the telecommunications market.

Reliant Enterprise Communications Ltd (REC) is a competitive operator in the International Termination market and has been in business since March, 2003.

Comments

We believe there is misinformation regarding the situation in Jamaica from a historical perspective and since International licenses were awarded in March, 2003.

Historical

In 1998 Cable & Wireless Jamaica (CWJ) and the appropriate governmental agencies negotiated a reduction of the International Settlement Rate (ISR) from approximately US\$0.56 cents to US\$0.19 cents over a period of years. There was an additional reduction that resulted an agreed upon rate of US\$0.146 cents in 2002 by CWJ (FCC Dockets 02-324, 96-261,) First Report and Order, March 20, 2004, CWJ was then removed from the ISPR. CWJ and the Government of Jamaica were well aware of the reduction in revenues that would be caused by these agreements.

Leading up to competition in the mobile markets in early 2002, CWJ had 500,000 fixed lines and 378,000 mobile subscribers for a total of 878,000 access lines in Jamaica. By the end of 2004, an additional 1,000,000 access lines had been added via cellular service. Of these new access lines, Digicel has the vast majority of new lines. International Termination rates (ITR) for cellular are in the order of US\$0.25 cents and with 1,800,000 cellular customers we have difficulty understanding how revenues from International termination have decreased.

Competitive International License were granted to 17 firms in March, 2003. The ITR at that time had been reduced to US\$0.08 cents by the dominant carrier CWJ, from the agreed upon ISR negotiated by them of US\$0.146. Since competition was introduced, the local termination rate to the dominant carrier, CWJ, has been changed four times settling at US\$0.025 cents in November, 2004. It is clear that market rates have fallen since that time, partially due to CWJ reducing the ITR and then by competition. It is interesting to note that Mobile ITR have maintained their high levels despite competition and only fixed line has been impacted. We view much of what has happened as caused by CWJ, first to thwart the introduction of competition (reduction to US\$0.08 cents) and further by using its market power to manipulate market rates to maintain their dominance.

Additionally, we believe CWJ has used its bilateral agreements with US, UK and Canadian carriers to manipulate market prices and provide a competitive advantage to them. We lodged a complaint with the OUR regarding this matter, but no action was ever taken.

It is interesting to note, that of the 17 licensees in March, 2003 only two companies are still operational in September, 2005.

It is difficult for us to agree with the notion that Jamaica has suffered over the past 2-3 years due to declining ITR, particularly since the large majority of this reduction was brought into Jamaica with full knowledge of the Government and by actions taken by the dominant carrier. In most cases, the dominant carrier in a country sets market prices by virtue of their networks and past associations. New competitors seek to take advantage of those rates, but have no vested interest in having the rates being substantially reduced as it causes economic harm. The dominant carrier historically will maintain 50-75% of its market, particularly in the first few years of competition. If they keep rates at reasonable levels there is no economic sense for a competitor to establish rates significantly lower. They are just taking money out of their pockets and most businesses are not about to do that.

The concept of a Universal Service Fund is well established in the industry on a world wide basis and we agree with and support the concept. As with many policies, it is implemented differently depending upon the requirements of the country. We do take issue with ITR being singled out for a specific tax as there is already a tax on domestic services that has generated significant amounts of money for the same purpose (over J\$ 1.0 billion). We also believe it places an unfair burden on smaller operators versus the dominant carrier(s). Consumers should suffer due to the actions of companies to protect their "turf" regardless of country.

Discussion

B. (8).

In any jurisdiction we would support rules, procedures and regulations that encourage fair competition, lower consumer rates and equality of access. It would seem that circuit disruptions or blockages, wherever they occur, are fairly easy to identify immediately. In the case of Jamaica, it was evident locally within two hours of its occurrence. We believe that any type of network blockage regardless of partial (Mobile) or full (Fixed/Mobile/Data) is unacceptable in any jurisdiction for the purposes of forcing rates upwards or whipsawing. Service degradations are viewed in the same light. In today's telecommunications, carriers are quick to inform each other of circuit degradation or anomalies almost instantaneously in order to reroute traffic or let their customers know. The only instance acceptable in our opinion is for non payment of services or bills that are provable.

B. (9)

In any jurisdiction, we would agree with ATT (five and two) for the comment and response period. However, we feel there is an imperative beyond the length of pleading or comments. If we are to take the consumer impact into the mix, than a regulator must be able to take unilateral action in the instance where service is disrupted due to circuit blockage with the intent to circumvent existing agreements or raise rates without proper notification and discussion. After all, it is the consumer at both ends who suffer the most in terms of business and personal. Often, the carrier who is doing the blocking does not inform its consumers what has taken place or give advance warning. In the case of

Jamaica, there was no advance warning by local carriers or Government that this action was to take place. In countries where there are still dominant carriers thus, leaving no alternatives, the consumer suffers greatly.

There also is the impact on competitors in any local market. When a dominant carrier(s) decide to block circuits, competitors with valid interconnection agreements are also impacted, without warning, resulting in lost business and customer dissatisfaction.

B. (10)

The key focus in any action, regardless of jurisdiction, is to protect business and consumer interest. It would appear that circuit disruptions take place without prior notification as this puts the maximum amount of pressure upon the subjected carriers to comply with whatever the blocking carrier(s) are trying to achieve or even Governments.

Assuming no technical or Act of God reason for disruptions, there is enough historical evidence immediately available in terms of traffic flow to identify anomalies quickly. In at least one case under review, the US carriers knew that they were being blocked and why it was happening. We believe that an email from effected carriers followed by formal notification should be sufficient for any regulator to take immediate action. Confidentiality in these cases should not be allowed as it really is the end user who is most damaged and effected carriers should come forth and let the public know what is occurring. In at least one case, this did not happen.

We do believe the regulator has a responsibility to provide public notice immediately based on carriers notifications or other credible information. This allows the public to be informed by providers as to what the situation is and not bear the brunt of consumer ire. We do not feel qualified to comment on inter – agency cooperation except to the extent it delays resolution of the issue. In terms of foreign governments interaction, it is our understanding that in at least one case the FCC and State Department were consulted regarding a tax and the foreign officials publicly announced that their was support for what they were doing. Since there were circuit disruptions after that, we are not sure who did what to whom. Negotiation is always better than confrontation, but once again a regulator must act in the best interest of the consumer, without delay. In fact, in one instance, approximately 75% of the traffic coming into the country was blocked; we do not view this as mere disruption, but a flagrant violation of agreements and contracts by those carriers.

The question is “what is a reasonable response by the Commission” in these matters and how quickly should they intervene. We feel that a regulator must be proactive and protective of consumers and competition. At a minimum, if another jurisdiction decides to put taxes on local companies that they know will be passed along to other carriers, unilaterally change prices or ISP rates and enforce this by shutting down traffic or utilizing circuit disruptions, then the Commission should allow immediate “reciprocity” in terms of price increases to the foreign carrier. We do not feel allowing US carriers to block incoming traffic, even though it is being done to them at the foreign end, solves the issue and in fact just hurts the consumer more. However, immediately applying increased terminations rates upon the foreign carrier at least “levels” the playing field and would more than likely bring the parties to the negotiating table.

B. (11)

This is a sensitive issue on many fronts. We feel that it is the regulators responsibility to allow home carriers to respond in a like manner or with some alternative if the unilateral action was taken. Carriers should be allowed to stop increased payment s directly to foreign carriers with the understanding that based on final negotiations, some or all of the increase may have to be paid; this type of response should be immediate. We assume that any jurisdiction has negotiated rates in good faith and with participation by their home carriers who have agreed with the outcome. Therefore, carriers should not negotiate a different rate under the duress of blockages. Stop payments should remain in effect until final resolution is made by the regulators or Government with the understanding that payments for past traffic may have to be made. If any regulator finds that anticompetitive behavior continues despite a grant of interim relief then the local carrier should be allowed to increase their charges to the offending carrier(s) at the same rate and immediately. Like all things, the local carrier will pass along this cost to their consumer which then puts pressure on the appropriate parties to come together and resolve the issues.

B. 12/13

This is a bit of a smoke screen as there is no business, when it receives a cost break that passes the total along to its customers. Being a US citizen, I can attest that rates to Jamaica from fixed to fixed have come down substantially since 2002, in the range of 67%; US\$1.15 to US\$0.38 over the period. Could the rates be cheaper: absolutely, but since Governments in most countries do not set rates for businesses, this is a mute point. At the same time, rates from Jamaica to the US have dropped only 48% even though the termination rates in the US are in the order of US\$0.012 and in some cases lower. Before Governments complain about benefits to US consumers they should look in their own backyards to see if the dominant carriers (fixed/mobile) have passed along rate reductions to their customers.

In terms of declining rates not stimulating demand that is contrary to basic economic principals. While we cannot comment on the validity of such an assertion, there is sufficient data from the Commission and independent resources to verify traffic statistics. With the growth of mobile in many developing countries, there has been organic growth which would lead to an increase in traffic and demand. We feel this statement, at least in some jurisdictions, is misleading and masks issues within the home telecom markets. For example, the Editor of the Trinidad newspaper alleges that CW Plc. parent of Cable & Wireless properties in the Western Caribbean, in the last year reduced its capital expenditures in the region by 50% while raising their dividend to their shareholders by 25%!

We would suppose that it is a philosophical question as to the legitimacy of using such a narrow product (ITR) to fund USO and domestic network expansion. History tells us that if the US, UK or other "first world country" did this there would be a great hue and cry against it. At least in some cases, the fact is the increase was a tax on local companies that they were required to pay to the Government. They than passed on the tax increase to foreign carriers; sounds like a tariff to us with WTO implications.